

ORDINANCE NO. 2418

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.00 ACRES, MORE OR LESS

WHEREAS, on the 8th day of June 2015, a zoning application, denominated Change of Zone No. 1781 was filed on behalf of Riverview Associates III, LLC; and

WHEREAS, on the 13th day of August 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of August 2015, said Planning and Zoning Commission recommended that Change of Zone No. 1781 be approved; and

WHEREAS, on the 22nd day of September 2015, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX COUNTY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of CR-1 Commercial Residential District it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

All that certain tract, piece or parcel of land lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying southwest of Dagsboro Road (Road 334) 900 feet northwest of Fire Tower Road (Road 334A) and being more particularly described as follows:

BEGINNING at a point on the southerly right-of-way line of Sussex County Road No. 334, said point being South 61°08'30" East 631.78 feet from the corner for these lands and lands now or formerly of Augustus C. Wagner; thence by and with the aforesaid right-of-way line of Sussex County Road No. 334, South 61°08'30" East 311.95 feet to a point, being a corner for these lands and other lands of Riverview Associates III, LLC; thence turning and running South 28°34'15" West 367.09 feet to a point; thence turning and running North 61°08'30" West 358.04 feet to a point; thence turning and running North 29°12'30" East 367.09 feet to the place of beginning, said to contain 3.00 acres more or less and as shown on a Proposed Rezoning Plat of Riverview Associates III, prepared by Simpler Surveying & Associates, dated September 5, 2003. Being a portion of those lands conveyed unto Riverview Associates III, LLC by deed of James L. Layfield and Sandra L. Layfield, dated April 14, 2004, and of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Deed Book 2966, at Page 110.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2418 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF SEPTEMBER 2015.



**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Riverview Associates III, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 3.00 acres, more or less. The property is located southwest of Dagsboro Road (Road 334) 900 feet northwest of Fire Tower Road (Road 334A) (911 Address: 28086 Dagsboro Road, Dagsboro) Tax Map I.D. 233-10.00-17.00.**
- B. Council found that the Sussex Conservation District commented that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that there is a potential that off-site drainage improvements may be required; that on-site drainage improvements will be required; and that no tax ditches are affected.**

- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is located in the Dagsboro/Frankford Planning Area; that sewer service has not been extended to the area at this time; that conformity to the Dagsboro/Frankford Planning Study will be required; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a Concept Plan is not required.**
- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Jeremy Smith was present on behalf of Riverview Associates III, LLC, with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP, who stated that the site contains approximately 3 acres of land with improvements and is adjacent to a 5.0 acre parcel already zoned C-1 General Commercial: that they propose to combine the two parcels as an approximately 8.0 acre tract for commercial use and activities, referencing professional services and trade services; that they have no current intent to develop the remaining acreage; that the site is centrally located near Dagsboro, across from a church, a DelDOT yard, a deli, and several other commercial businesses; that DelDOT has not required a Traffic Impact Study; that the application is in compliance with the County Comprehensive Land Use Plan and the purposes of the Zoning Ordinance; that the dwelling is being rented; that they realize that if the rezoning is approved a site plan will be subject to review and approval by the Commission and other agencies; that a tax ditch does exist in the rear of the farm that serves as drainage for the farm; and that the site is located in a Town Center Area according to the County Comprehensive Land Use Plan which is an area near incorporated municipalities and within which the major guidelines include single-family, townhouse and multi-family units to be served by commercial uses, retail and office uses, but not large scale intense shopping centers.**
- E. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
- 1. This rezoning is for 3.0 acres of land. It is an expansion of an existing parcel that is currently zoned C-1 General Commercial. The Applicant has sought the expansion to make a single usable commercially zoned parcel that is developable.**
 - 2. The site is situated along Dagsboro Road, near the intersection with U.S. Route 113. It is in an area where other commercial and business zonings and uses exist, including an office and retail complex. The use is consistent with these existing uses and zonings in the area.**
 - 3. The location is between Millsboro and Dagsboro in an area that is slowly developing. It is also within the Town Center Area under the County Comprehensive Plan, which permits commercial, retail and office uses.**
 - 4. The use will not have an adverse effect upon neighboring properties. It is entirely surrounded by other land owned by the Applicant.**
 - 5. The rezoning will not adversely affect area roadways or public facilities.**
 - 6. No parties appeared in opposition to the application.**
 - 7. Any development of the property will require further site plan approval by the Sussex County Planning and Zoning Commission.**
- F. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**